

Affidavit of Vincent Russo

City of New York,
State of New York

I Vincent Russo, do hereby depose and state as follows:

I am one of the defendants in the case *United States v. Liborio Bellomo*. I have personal knowledge of the facts set forth herein, and if called to testify I could and would competently testify truthfully as follows:

1) On or about February 23, 2006, federal agents appeared at my residence with a warrant for my arrest. When I answered the door, I was asked if I was Vincent Russo. I replied that I was, and at that time the agents entered my residence, and directed me to submit to a “pat down”, search; and thereafter directed me to the dining room located to the rear of my residence.

The house I live in is a three-story, Tudor style house, located at Yonkers, NY. The ground level, or first floor, is designed as an open space. There are no barriers or walls that separate the living room and the dining room, and only a waist level counter that separates the kitchen from the other rooms on the first floor. Upon entering the house, through the front door as the agents did, there is an unobstructed view of the entire first floor.

Immediately after I was “patted down”, one of the five of the six agents who entered my home directed me to sit at the dining room table. At the time the agents arrived, I was dressed in my trousers, and in an undershirt, my robe, and slippers. Right from when I was “patted down”, I asked if I would be allowed to put on my shoes, socks, and shirt to be properly attired. At all times I was civil and polite to the agents and they

likewise were to me. My shoes and socks were on the first step of the staircase, and my shirt was hung on the doorknob of the rear closet. I remember the location of my shirt because the night before I was called to Prince Bakery, where I am manager of operations, and I hung my shirt on the doorknob when I returned.

After the agents directed me to sit at the dining room table, only two of the six or so agents present stayed with me at the table.

One of the agents brought me my shoes and shirt, which I put on while I sat at the table. One of the other two agents who stayed with me got me medicine from the kitchen cabinet just five to ten feet away from me. The other agents inventoried the contents of my pockets and wallet.

At the same time, the other agents just began wandering around my house. One of them stayed on the first floor and was rummaging through table drawers and the closets. He even opened the door to the basement and went down the basement stairs. The other two or three went upstairs. I could hear them going through drawers and closets of the bedrooms.

Finally, after they continued to search for a while, I said to the agent who had gone downstairs to my basement and had just returned, "What are you guys looking for".

A couple of minutes later when the agents did not respond, I asked if they had search warrant.

The agent then asked me if I had any weapon in the house, I told him that the only weapon in the house was an old long-barrel, hunting rifle; (actually, it is a shotgun) and that it was located in the first floor closet. I then pointed, indicating the closet was located just to the left of the front door. (the closet in which the gun was actually located

was at the top of the steps to the second floor, but it was easier for me, at that moment, to point to the closet below, and then direct the agent from there).

However, the agent never even got to the point of reaching the first floor closet because one of the agents whom had been upstairs going through all of the bedrooms, there are four, came down the stairs with a handgun, which he said he had found in the rear bedroom closet.

I believe he was referring to the rear bedroom on the left hand side, and he would have had to expend some effort in order to search through that closet.

That bedroom is located on the second floor and at the rear of the house. It is as far away from my location at the dining room table as the house allows for. With two agents posted right beside me, and four others between me and that bedroom, there was no chance that searching through the closet was the efforts of an agent performing a protective sweep for weapons which I could have readily obtained during my arrest.

I believe that the agent search exceeded the limits of a proper protective sweep and I therefore ask this Court to suppress the weapon and uphold my Fourth Amendment Rights.

Date: July 7, 2006

Respectfully submitted,

Vincent Russo